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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTO	OR ATTORNEY DOCKET NO.	CONFIRMATION NO.		
09/670,346	09/27/2000	Robert Lamb	P021941-00001	4446		
4372	7590 05/21/2002	1				
ARENT FOX KINTNER PLOTKIN & KAHN			EXAM	EXAMINER		
1050 CONNE SUITE 400	CTICUT AVENUE, N.W.	•	KISHORE, GO	KISHORE, GOLLAMUDI S		
WASHINGTON, DC 20036			ART UNIT	PAPER NUMBER		
		£	1615	^		
		:	DATE MAILED: 05/21/2002	. 9		

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. **09/670,346**

Applicant(s)

Lamb

Office Action Summary

Examiner

Gollamudi Kishore

Art Unit 1615



	The M	AILING DATE of this communication appears	on the cover s	heet with	the correspondence address		
	for Reply						
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>three</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.							
		nay be available under the provisions of 37 CFR 1.136 (a). In communication.	no event, however,	may a reply b	e timely filed after SIX (6) MONTHS from the		
- If the p - If NO p - Failure - Any re	period for reph period for reph to reply withinply received b	y specified above is less than thirty (30) days, a reply within the year specified above, the maximum statutory period will apply a in the set or extended period for reply will, by statute, cause they the Office later than three months after the mailing date of the adjustment. See 37 CFR 1.704(b).	nd will expire SIX (a application to be	6) MONTHS fr come ABANDO	om the mailing date of this communication. NED (35 U.S.C. § 133).		
Status							
1) X	Respons	ive to communication(s) filed on Apr 17, 2	002		·		
2a) 🗌	This acti	on is FINAL . 2b) 💢 This act	ion is non-fina	al.			
3) 🗆	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11; 453 O.G. 213.						
Disposi	tion of Cla	aims					
4) 💢	Claim(s)	1-26	-		is/are pending in the application.		
4	la) Of the	above, claim(s) <u>1-8 and 25</u>			is/are withdrawn from consideration.		
5) 🗆	Claim(s)				is/are allowed.		
6) 💢		9-24 and 26					
7) 🗆	Claim(s)				is/are objected to.		
8) 🗌							
Applica	tion Pape	ers					
9) 🗆	The spec	cification is objected to by the Examiner.					
10)	10)□ The drawing(s) filed on is/are a)□ accepted or b)□ objected to by the Examiner.						
	Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
11)	The prop	oosed drawing correction filed on	i	s: a)□ a	pproved b) \square disapproved by the Examiner.		
	If approv	ved, corrected drawings are required in reply t	o this Office a	ction.			
12)	The oath	or declaration is objected to by the Exami	ner.				
Priority	under 35	U.S.C. §§ 119 and 120					
13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).							
a) □	a) All b) Some* c) None of:						
	1. Certified copies of the priority documents have been received.						
:	2. Certified copies of the priority documents have been received in Application No						
		pies of the certified copies of the priority de application from the International Bure	au (PCT Rule	17.2(a)).	-		
		ached detailed Office action for a list of the					
14) 📙	_	ledgement is made of a claim for domestic					
a) U The translation of the foreign language provisional application has been received.							
15)∐		ledgement is made of a claim for domestic	priority unde	r 35 U.S.(J. 88 120 and/or 121.		
Attachmo 1) ☑ No		nces Cited (PTO-892)	4)	Cummer / IDTO	412) Paper Note)		
		nces Cited (P10-892) person's Patent Drawing Review (PTO-948)			-413) Paper No(s)		
	Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152) Information Disclosure Statement(s) (PTO-1449) Paper No(s).						
بـــــــــــــــــــــــــــــــــ		The state mental in the 1440 is about 1000.	or L. Other.				

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DETAILED ACTION

1. Applicant's election without traverse of Group II, claims 9-24 and 26 in Paper No. 9 is acknowledged.

Claim Rejections - 35 U.S.C. § 103

- 2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 3. Claims 9-24 and 26 are rejected under 35 U.S.C. § 103 as being unpatentable over Fariss (5,198,432)by itself or in view of Hendler (5,114,957).

Fariss teaches that alpha- tocopherol (vitamin E) derivative, tocopherol phosphate is a cytoprotective agent (fig. 4a; col. 1, lines 21-col. 2, line 2; col. 2, lines 49-51, 58-61; Table 10). Although Fariss does not specify the vehicle for the phosphate (carrier), col. 9, line 25 of the reference appear to indicate that the vehicle used contains peanut oil (lipophilic carrier). Although Fariss does not specifically teach the encapsulation of tocopherol phosphate, he teaches the encapsulation of succinate derivative of tocopherol in liposomes on col. 11, line 30. Fariss further teaches that the organ accumulation of alphatocopherol is higher when administered in a liposomal form compared to the unencapsulated tocopherol. Therefore, one of ordinary skill in the art would be motivated

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to use the cytoprotective alpha-tocopherol derivative, alpha-tocopherol phosphate in a liposome encapsulated form since it is accumulated in higher amounts. An artisan would be further motivated to use liposome encapsulated alpha-tocopherol phosphate since the reference of Hendler shows the knowledge in the art of encapsulating this compound in liposomes (col. 2, line 48 through col. 3, line 4). In the absence of showing unexpected results, it is deemed obvious to an artisan from the teachings of Fariss that the cytoprotective effect of alpha-tocopherol phosphate is to a variety of tissues and cells and that the compositions could be used to protect cells as recited in instant claims.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *G.S. Kishore* whose telephone number is (703) 308-2440.

The examiner can normally be reached on Monday-Thursday from 6:30 A.M. to 4:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, T.K. Page, can be reached on (703)308-2927. The fax phone number for this Group is (703)305-3592.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [thurman.page@uspto.gov].

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All Internet e-mail communications will be made of record in the application file.

PTO employees do not engage in Internet communications where there exists a possibility

that sensitive information could be identified or exchanged unless the record includes a

properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is

more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette

of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application should

be directed to the Group receptionist whose telephone number is (703)308-1235.

Gollamudi S. Kishore, Ph. D

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Primary Examiner

Group 1600

gsk

May 20, 2002